

Senate File 346 - Introduced

SENATE FILE 346

BY GUTH

A BILL FOR

1 An Act relating to applications for permits to construct
2 electric transmission lines, pipelines and underground
3 storage facilities, and hazardous liquid pipelines, making
4 penalties applicable, and including effective date and
5 applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 476A.7, subsection 1, paragraph b, Code
2 2023, is amended to read as follows:

3 b. Gives the applicant the power of eminent domain to the
4 extent and under such conditions as the board may approve,
5 prescribe and find necessary for the public convenience, use
6 and necessity, subject to subsection 4, proceeding in the
7 manner of works of internal improvement under [chapter 6B](#).
8 The burden of proving the necessity for the exercise of the
9 power of eminent domain shall be on the person issued the
10 certificate.

11 Sec. 2. Section 476A.7, Code 2023, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 4. The board shall not grant eminent domain
14 rights to a person, company, or corporation having secured
15 a certificate as provided in this chapter unless at least
16 two-thirds of the affected parcels and two-thirds of the total
17 distance of the facility have been acquired through voluntary
18 easements. The board shall not require more than nine-tenths
19 of easements to be voluntary.

20 Sec. 3. Section 478.2, subsection 4, Code 2023, is amended
21 to read as follows:

22 4. A person seeking rights under [this chapter](#) shall not
23 negotiate or purchase any easements or other interests in
24 land in any county known to be affected by the proposed
25 project prior to the informational meeting. A person seeking
26 rights under this chapter shall not engage in communication
27 with landowners prior to negotiations without obtaining a
28 landowner's written consent to the communication.

29 Sec. 4. Section 478.15, subsections 1 and 2, Code 2023, are
30 amended to read as follows:

31 1. Any person, company, or corporation having secured
32 a franchise as provided in [this chapter](#), shall, subject
33 to subsection 1A, thereupon be vested with the right of
34 eminent domain to such extent as the utilities board may
35 approve, prescribe and find to be necessary for public use,

1 not exceeding one hundred feet in width for right-of-way and
2 not exceeding one hundred sixty acres in any one location,
3 in addition to right-of-way, for the location of electric
4 substations to carry out the purposes of said franchise;
5 provided however, that where two hundred kilovolt lines
6 or higher voltage lines are to be constructed, the person,
7 company, or corporation may apply to the board for a wider
8 right-of-way not to exceed two hundred feet, and the board
9 may for good cause extend the width of such right-of-way for
10 such lines to the person, company, or corporation applying for
11 the same. The burden of proving the necessity for public use
12 shall be on the person, company, or corporation seeking the
13 franchise. A homestead site, cemetery, orchard, or schoolhouse
14 location shall not be condemned for the purpose of erecting
15 an electric substation. If agreement cannot be made with the
16 private owner of lands as to damages caused by the construction
17 of said transmission line, or electric substations, the same
18 proceedings shall be taken as provided for taking private
19 property for works of internal improvement.

20 2. Any person, company, or corporation proposing to
21 construct a transmission line or other facility which involves
22 the taking of property under the right of eminent domain
23 and desiring to enter upon the land, which it proposes to
24 appropriate, for the purpose of examining or surveying the
25 same, shall first file with the utilities board, a written
26 statement under oath setting forth the proposed routing of
27 the line or facility including a description of the lands
28 to be crossed, the names and addresses of owners, together
29 with request that a permit be issued by the board authorizing
30 the person, company, or corporation or its duly appointed
31 representative to enter upon the land for the purpose of
32 examining and surveying and to take and use on the land
33 any vehicle and surveying equipment necessary in making the
34 survey. The board shall within ten days after the request
35 issue a permit, accompanied by such bond in such amount as the

1 board shall approve pursuant to subsection 2A, to the person,
2 company, or corporation making the application, if in the
3 board's opinion the application is made in good faith and not
4 for the purpose of harassing the owner of the land. If the
5 board is of the opinion that the application is not made in
6 good faith or made for the purpose of harassment to the owner
7 of the land the board shall set the matter for hearing. The
8 matter shall be heard not more than twenty days after filing
9 the application. Notice of the time and place of hearing shall
10 be given by the board, to the owner of the land by registered
11 mail with a return receipt requested, not less than ten days
12 preceding the date of hearing.

13 Sec. 5. Section 478.15, Code 2023, is amended by adding the
14 following new subsections:

15 NEW SUBSECTION. 1A. The board shall not grant eminent
16 domain rights to a person, company, or corporation having
17 secured a franchise as provided in this chapter unless at
18 least two-thirds of the affected parcels and two-thirds of the
19 transmission line, wire, or cable's total distance have been
20 acquired through voluntary easements. The board shall not
21 require more than nine-tenths of easements to be voluntary.

22 NEW SUBSECTION. 2A. Before a person, company, or
23 corporation seeking a franchise is granted a franchise under
24 this chapter, the person, company, or corporation must satisfy
25 the board that the applicant has property within this state
26 other than a transmission line, wire, or cable subject to
27 execution of a value in excess of one million dollars, or the
28 person, company, or corporation must file and maintain with
29 the board a surety bond in the penal sum of the lesser of one
30 million dollars or one percent of the project value with surety
31 approved by the board, conditioned that the person, company,
32 or corporation will pay any and all damages legally recovered
33 against it growing out of the construction or operation of its
34 transmission line, wire, or cable in the state of Iowa. When
35 the person, company, or corporation seeking a franchise under

1 this chapter deposits with the board security satisfactory to
2 the board as a guaranty for the payment of the damages, or
3 furnishes to the board satisfactory proofs of its solvency and
4 financial ability to pay the damages, the person, company, or
5 corporation seeking a franchise under this chapter is relieved
6 of the provisions requiring bond.

7 Sec. 6. NEW SECTION. **478.17A Transmission line operation**
8 **— damages.**

9 1. Any person, company, or corporation having secured a
10 franchise as provided in this chapter shall be responsible for
11 damages resulting from construction, operation, or maintenance,
12 including damages resulting from an environmental disaster,
13 to local livestock, or other damages attributable to the
14 construction, operation, or maintenance.

15 2. A claim for damage for future crop deficiency within the
16 easement strip shall not be precluded from renegotiation under
17 section 6B.52 on the grounds that it was apparent at the time
18 of settlement. The landowner shall notify the person, company,
19 or corporation seeking the franchise in writing fourteen days
20 prior to harvest in each year to assess crop deficiency or by
21 providing global positioning system yield monitoring data or
22 similar assessment data demonstrating crop deficiency to the
23 company within thirty days of harvest.

24 Sec. 7. NEW SECTION. **478.34 Liability.**

25 Notwithstanding any provision in this chapter to the
26 contrary, except where a landowner's actions constitute gross
27 negligence and the landowner commits critical infrastructure
28 sabotage as defined in section 716.11, the landowner shall not
29 be liable for any damages to a transmission line, wire, or
30 cable.

31 Sec. 8. NEW SECTION. **478.35 Land restoration standard.**

32 1. The board, pursuant to chapter 17A, shall adopt rules
33 establishing standards for the restoration of agricultural
34 lands during and after a transmission line, wire, or cable
35 construction. In addition to the requirements of section

1 17A.4, the board shall distribute copies of the notice of
2 intended action and opportunity for oral presentations to each
3 county board of supervisors. Any county board of supervisors
4 may, under the provisions of chapter 17A, and subsequent to
5 the rulemaking proceedings, petition under those provisions
6 for additional rulemaking to establish standards for land
7 restoration after a transmission line, wire, or cable within
8 that county. Upon the request of the petitioning county, the
9 board shall schedule a hearing to consider the merits of the
10 petition. Rules adopted under this section shall not apply to
11 land located within city boundaries unless the land is used for
12 agricultural purposes. Rules adopted under this section shall
13 address, but are not limited to, all of the following subject
14 matters:

- 15 *a.* Topsoil separation and replacement.
- 16 *b.* Temporary and permanent repair to drain tile.
- 17 *c.* Removal of rocks and debris from the right-of-way.
- 18 *d.* Restoration of areas of soil compaction.
- 19 *e.* Restoration of terraces, waterways, and other erosion
20 control structures.
- 21 *f.* Revegetation of untilled land.
- 22 *g.* Future installation of drain tile or soil conservation
23 structures.
- 24 *h.* Restoration of land slope and contour.
- 25 *i.* Restoration of areas used for field entrances and
26 temporary roads.
- 27 *j.* Construction in wet conditions.
- 28 *k.* Designation of a person, company, or corporation seeking
29 a franchise point of contact for landowner inquiries or claims.
- 30 2. The county board of supervisors shall cause an on-site
31 inspection for compliance with the standards adopted under
32 this section to be performed at any transmission line, wire,
33 or cable construction project in the county. A licensed
34 professional engineer familiar with the standards adopted
35 under this section and registered under chapter 542B shall be

1 responsible for the inspection. A county board of supervisors
2 may contract for the services of a licensed professional
3 engineer for the purposes of the inspection. The reasonable
4 costs of the inspection shall be paid by the person, company,
5 or corporation seeking the franchise.

6 3. If the inspector determines that there has been a
7 violation of the standards adopted under this section, of
8 the land restoration plan, or of an independent agreement on
9 land restoration or line location executed in accordance with
10 subsection 10, the inspector shall give oral notice, followed
11 by written notice, to the person, company, or corporation
12 seeking the franchise and the contractor operating for the
13 person, company, or corporation seeking the franchise and order
14 corrective action to be taken in compliance with the standards.
15 The costs of the corrective action shall be borne by the
16 contractor operating for the person, company, or corporation
17 seeking the franchise.

18 4. An inspector shall adequately inspect underground
19 improvements altered during transmission line, wire, or cable
20 construction. An inspection shall be conducted at the time of
21 the replacement or repair of the underground improvements. An
22 inspector shall be present on the site at all times at each
23 phase and separate activity of the opening of the trench, if
24 applicable, the restoration of underground improvements, and
25 backfilling. The person, company, or corporation seeking
26 the franchise and its contractor shall keep an inspector
27 continually informed of the work schedule and any schedule
28 changes. If proper notice is given, construction shall not
29 be delayed due to an inspector's failure to be present on the
30 site.

31 5. If the person, company, or corporation seeking
32 the franchise or its contractor does not comply with the
33 requirements of this section, with the land restoration plan
34 or line location, or with an independent agreement on land
35 restoration executed in accordance with subsection 10, the

1 county board of supervisors may petition the board for an order
2 requiring corrective action to be taken. In addition, the
3 county board of supervisors may file a complaint with the board
4 seeking imposition of civil penalties under section 478.29.

5 6. The person, company, or corporation seeking the
6 franchise shall allow landowners and the inspector to view
7 the proposed center line of the transmission line, wire, or
8 cable prior to commencing trenching operations to ensure that
9 construction takes place in its proper location.

10 7. An inspector may temporarily halt the construction
11 if the construction is not in compliance with this chapter
12 and the standards adopted pursuant to this chapter, the land
13 restoration plan, or the terms of an independent agreement
14 with the person, company, or corporation seeking the franchise
15 regarding land restoration or line location executed in
16 accordance with subsection 10, until the inspector consults
17 with the supervisory personnel of the person, company, or
18 corporation seeking the franchise.

19 8. The board shall instruct inspectors appointed by the
20 board of supervisors regarding the content of the statutes
21 and rules and the inspectors' responsibility to require
22 construction conforming with the standards provided by this
23 chapter.

24 9. A person, company, or corporation having secured a
25 franchise as provided in this chapter shall file with the
26 petition a written land restoration plan showing how the
27 requirements of this section, and of rules adopted pursuant to
28 this section, will be met. The person, company, or corporation
29 seeking the franchise shall provide copies of the plan to
30 all landowners of property that will be disturbed by the
31 construction.

32 10. This section does not preclude the application of
33 provisions for protecting or restoring property that are
34 different than those prescribed in this section, in rules
35 adopted under this section, or in the land restoration plan,

1 if the alternative provisions are contained in agreements
2 independently executed by the person, company, or corporation
3 seeking the franchise and the landowner, and if the alternative
4 provisions are not inconsistent with state law or with
5 rules adopted by the board. Independent agreements on land
6 restoration or line location between the landowner and person,
7 company, or corporation seeking the franchise shall be in
8 writing and a copy provided to the county inspector.

9 Sec. 9. Section 479.5, subsection 5, Code 2023, is amended
10 to read as follows:

11 5. A pipeline company seeking rights under [this chapter](#)
12 shall not negotiate or purchase any easements or other
13 interests in land in any county known to be affected by
14 the proposed project prior to the informational meeting. A
15 pipeline company seeking rights under this chapter shall not
16 engage in communication with landowners prior to negotiations
17 without obtaining a landowner's written consent to the
18 communication.

19 Sec. 10. Section 479.7, Code 2023, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 3. Upon the filing of the petition, a
22 pipeline company shall provide notice of such filing served by
23 certified mail to landowners.

24 Sec. 11. Section 479.24, subsection 1, Code 2023, is amended
25 to read as follows:

26 1. A pipeline company granted a pipeline permit under
27 this chapter shall, subject to subsection 3, be vested
28 with the right of eminent domain to the extent necessary
29 and as prescribed and approved by the board, not exceeding
30 seventy-five feet in width for right-of-way and not exceeding
31 one acre in any one location in addition to right-of-way for
32 the location of pumps, pressure apparatus, or other stations or
33 equipment necessary to the proper operation of its pipeline.
34 The board may grant additional eminent domain rights where
35 the pipeline company has presented sufficient evidence to

1 adequately demonstrate that a greater area is required for the
2 proper construction, operation, and maintenance of the pipeline
3 or for the location of pumps, pressure apparatus, or other
4 stations or equipment necessary to the proper operation of its
5 pipeline.

6 Sec. 12. Section 479.24, Code 2023, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 3. The board shall not grant eminent
9 domain rights to a pipeline company seeking a permit under this
10 section unless at least two-thirds of the affected parcels and
11 two-thirds of the pipeline project's total distance have been
12 acquired through voluntary easements. The board shall not
13 require more than nine-tenths of easements to be voluntary.

14 Sec. 13. Section 479.25, Code 2023, is amended to read as
15 follows:

16 **479.25 Damages.**

17 1. A pipeline company operating a pipeline or a gas
18 storage area shall have reasonable access to the pipeline or
19 gas storage area for the purpose of constructing, operating,
20 maintaining, or locating pipes, pumps, pressure apparatus or
21 other stations, wells, devices, or equipment used in or upon
22 the pipeline or gas storage area; shall pay the owner of the
23 land for the right of entry and the owner of crops for all
24 damages caused by entering, using, or occupying the land; and
25 shall pay to the owner all damages caused by the completion
26 of construction of the pipeline due to wash or erosion of the
27 soil at or along the location of the pipeline and due to the
28 settling of the soil along and above the pipeline. However,
29 this section shall not prevent the execution of an agreement
30 between the pipeline company and the owner of land or crops
31 with reference to the use of the land.

32 2. A pipeline company operating a pipeline or a gas
33 storage area shall be responsible for damages resulting from
34 construction, operation, or maintenance, including damages
35 resulting from an environmental disaster, to local livestock,

1 or other damages attributable to the construction, operation,
2 or maintenance.

3 Sec. 14. Section 479.26, Code 2023, is amended to read as
4 follows:

5 **479.26 Financial condition of permittee — bond.**

6 Before any permit is granted under **this chapter** the
7 applicant must satisfy the board that the applicant has
8 property within this state other than pipelines, subject to
9 execution of a value in excess of ~~two hundred fifty thousand~~
10 one million dollars, or the applicant must file and maintain
11 with the board a surety bond in the penal sum of ~~two hundred~~
12 ~~fifty thousand~~ the lesser of one million dollars or one
13 percent of the project value with surety approved by the board,
14 conditioned that the applicant will pay any and all damages
15 legally recovered against it growing out of the construction
16 or operation of its pipeline and gas storage facilities in the
17 state of Iowa. When the pipeline company deposits with the
18 board security satisfactory to the board as a guaranty for the
19 payment of the damages, or furnishes to the board satisfactory
20 proofs of its solvency and financial ability to pay the
21 damages, the pipeline company is relieved of the provisions
22 requiring bond.

23 Sec. 15. NEW SECTION. **479.35 Liability.**

24 Notwithstanding any provision in this chapter to the
25 contrary, except where a landowner's actions constitute gross
26 negligence and the landowner commits critical infrastructure
27 sabotage as defined in section 716.11, the landowner shall not
28 be liable for any damages to a pipeline or gas storage area.

29 Sec. 16. Section 479.45, subsection 2, Code 2023, is amended
30 to read as follows:

31 2. A claim for damage for future crop deficiency within
32 the easement strip shall not be precluded from renegotiation
33 under **section 6B.52** on the grounds that it was apparent at the
34 time of settlement ~~unless the settlement expressly releases the~~
35 ~~pipeline company from claims for damage to the productivity of~~

1 ~~the soil~~. The landowner shall notify the company in writing
 2 fourteen days prior to harvest in each year to assess crop
 3 deficiency or by providing global positioning system yield
 4 monitoring data or similar assessment data demonstrating crop
 5 deficiency to the company within thirty days of harvest.

6 Sec. 17. Section 479B.4, subsection 6, Code 2023, is amended
 7 to read as follows:

8 6. A pipeline company seeking rights under **this chapter**
 9 shall not negotiate or purchase an easement or other interest
 10 in land in a county known to be affected by the proposed
 11 project prior to the informational meeting. A pipeline
 12 company seeking rights under this chapter shall not engage in
 13 communication with landowners prior to negotiations without
 14 obtaining a landowner's written consent to the communication.

15 Sec. 18. Section 479B.6, Code 2023, is amended by adding the
 16 following new subsection:

17 NEW SUBSECTION. 3. Upon the filing of the petition, a
 18 pipeline company shall provide notice of such filing served by
 19 certified mail to landowners.

20 Sec. 19. Section 479B.13, Code 2023, is amended to read as
 21 follows:

22 **479B.13 Financial condition of permittee — bond.**

23 Before a permit is granted under **this chapter** the applicant
 24 must satisfy the board that the applicant has property within
 25 this state other than pipelines or underground storage
 26 facilities, subject to execution of a value in excess of ~~two~~
 27 ~~hundred fifty thousand~~ one million dollars, or the applicant
 28 must file and maintain with the board a surety bond in the
 29 penal sum of ~~two hundred fifty thousand~~ the lesser of one
 30 million dollars or one percent of the project value with surety
 31 approved by the board, conditioned that the applicant will pay
 32 any and all damages legally recovered against it growing out
 33 of the construction, maintenance, or operation of its pipeline
 34 or underground storage facilities in this state. When the
 35 pipeline company deposits with the board security satisfactory

1 to the board as a guaranty for the payment of the damages, or
2 furnishes to the board satisfactory proofs of its solvency and
3 financial ability to pay the damages, the pipeline company is
4 relieved of the provisions requiring bond.

5 Sec. 20. Section 479B.16, subsection 1, Code 2023, is
6 amended to read as follows:

7 1. A pipeline company granted a pipeline permit shall,
8 subject to subsection 4, be vested with the right of eminent
9 domain, to the extent necessary and as prescribed and approved
10 by the board, not exceeding seventy-five feet in width for
11 right-of-way and not exceeding one acre in any one location in
12 addition to right-of-way for the location of pumps, pressure
13 apparatus, or other stations or equipment necessary to
14 the proper operation of its pipeline. The board may grant
15 additional eminent domain rights where the pipeline company
16 has presented sufficient evidence to adequately demonstrate
17 that a greater area is required for the proper construction,
18 operation, and maintenance of the pipeline or for the location
19 of pumps, pressure apparatus, or other stations or equipment
20 necessary to the proper operation of its pipeline.

21 Sec. 21. Section 479B.16, Code 2023, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 4. The board shall not grant eminent
24 domain rights to a pipeline company seeking a permit under this
25 section unless at least two-thirds of the affected parcels and
26 two-thirds of the pipeline project's total distance have been
27 acquired through voluntary easements. The board shall not
28 require more than nine-tenths of easements to be voluntary.

29 Sec. 22. Section 479B.17, Code 2023, is amended to read as
30 follows:

31 **479B.17 Damages.**

32 1. A pipeline company operating a pipeline or an
33 underground storage facility shall have reasonable access to
34 the pipeline or underground storage facility for the purpose
35 of constructing, operating, maintaining, or locating pipes,

1 pumps, pressure apparatus, or other stations, wells, devices,
 2 or equipment used in or upon the pipeline or underground
 3 storage facility. A pipeline company shall pay the owner of
 4 the land for the right of entry and the owner of crops for all
 5 damages caused by entering, using, or occupying the lands and
 6 shall pay to the owner all damages caused by the completion
 7 of construction of the pipeline due to wash or erosion of the
 8 soil at or along the location of the pipeline and due to the
 9 settling of the soil along and above the pipeline. However,
 10 this section does not prevent the execution of an agreement
 11 between the pipeline company and the owner of the land or crops
 12 with reference to the use of the land.

13 2. A pipeline company operating a pipeline or an underground
 14 storage facility shall be responsible for damages resulting
 15 from construction, operation, or maintenance, including damages
 16 resulting from an environmental disaster, to local livestock,
 17 or other damages attributable to the construction, operation,
 18 or maintenance.

19 Sec. 23. Section 479B.29, subsection 2, Code 2023, is
 20 amended to read as follows:

21 2. A claim for damage for future crop deficiency within
 22 the easement strip shall not be precluded from renegotiation
 23 under [section 6B.52](#) on the grounds that it was apparent at the
 24 time of settlement ~~unless the settlement expressly releases the~~
 25 ~~pipeline company from claims for damage to the productivity of~~
 26 ~~the soil.~~ The landowner shall notify the pipeline company in
 27 writing fourteen days prior to harvest in each year to assess
 28 crop deficiency or by providing global positioning system yield
 29 monitoring data or similar assessment data demonstrating crop
 30 deficiency to the company within thirty days of harvest.

31 Sec. 24. NEW SECTION. 479B.34 Liability.

32 Notwithstanding any provision in this chapter to the
 33 contrary, except where a landowner's actions constitute gross
 34 negligence and the landowner commits critical infrastructure
 35 sabotage as defined in section 716.11, the landowner shall not

1 be liable for any damages to a pipeline or gas storage area.

2 Sec. 25. EFFECTIVE DATE. This Act, being deemed of
3 immediate importance, takes effect upon enactment.

4 Sec. 26. APPLICABILITY.

5 1. The following apply to applications for a permit
6 submitted pursuant to chapters 478, 479, and 479B prior to, on,
7 or after the effective date of this Act:

8 a. The section of this Act enacting section 478.17A.

9 b. The section of this Act enacting section 478.34.

10 c. The section of this Act amending section 479.25.

11 d. The section of this Act enacting section 479.35.

12 e. The section of this Act amending section 479B.17.

13 f. The section of this Act enacting section 479B.34.

14 2. Remaining sections of this Act apply to applications for
15 a permit submitted pursuant to Code chapters 476A, 478, 479,
16 and 479B regarding which the first informational meeting for a
17 petition is held on or after the effective date of this Act.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 This bill relates to applications for permits to construct
22 electric transmission lines, pipelines and underground storage,
23 and hazardous liquid pipelines under the purview of the Iowa
24 utilities board (board).

25 The bill modifies eminent domain rights for matters under
26 Code chapter 476A (electric power generation and transmission),
27 Code chapter 478 (electric transmission lines), Code chapter
28 479 (pipelines and underground gas storage), and Code chapter
29 479B (hazardous liquid pipelines and storage facilities). The
30 bill requires landowner communication consent, specified surety
31 bond amounts, liability, and damage provisions for permits
32 under the respective Code sections.

33 The bill prohibits the board from granting eminent domain
34 rights to an entity seeking those rights under Code chapters
35 476A, 478, 479, and 479B unless at least two-thirds of the

1 affected parcels and two-thirds of the area of the proposed
2 project are first acquired through voluntary easements. The
3 board is prohibited from requiring more than 90 percent of the
4 easements to be voluntary.

5 The bill requires a person, company, or corporation seeking
6 a franchise under Code chapter 478 to satisfy a bond amount
7 with the board. The franchise must satisfy the board that
8 the franchisee has property in the state of a value over \$1
9 million (not including the value of the proposed project) or
10 file and maintain with the board a surety bond of \$1 million
11 or 1 percent of the project value with surety approved by
12 the board, conditioned that the franchisee will pay any and
13 all damages legally recovered against it growing out of the
14 construction or operation of the project in the state. When
15 a franchisee deposits security satisfactory to the board as a
16 guaranty for the payment of the damages or furnishes to the
17 board satisfactory proofs of its solvency and financial ability
18 to pay the damages, the franchisee shall be relieved of the
19 provisions requiring bond.

20 The bill prohibits persons seeking rights to construct
21 projects under Code chapter 478, 479, or 479B from contacting
22 landowners regarding negotiations for land acquisition without
23 first obtaining the landowner's written consent allowing
24 communication. A person, company, or corporation seeking
25 to acquire an easement or other property interest shall not
26 contact a landowner unless first provided written consent by
27 the landowner.

28 The bill adds provisions to Code chapters 478, 479, and
29 479B requiring a person seeking to construct projects under
30 those chapters to be held liable for damages resulting from
31 construction, operation, or maintenance, including damages
32 resulting from an environmental disaster, to local livestock,
33 or other damages attributable to the construction, operation,
34 or maintenance.

35 The bill provides that a claim for damages related to

1 future crop deficiency within an easement strip under Code
2 chapter 478 shall not be precluded from renegotiation under
3 Code section 6B.52 relating to eminent domain procedure for
4 the renegotiation of damages. The landowner shall notify the
5 franchisee in writing 14 days prior to harvest in each year
6 to assess crop deficiency or by providing global positioning
7 system yield monitoring data or similar assessment data
8 demonstrating crop deficiency to the company within 30
9 days of harvest. The bill modifies claims for future crop
10 deficiency damages pursuant to Code chapters 479 and 479B to
11 allow a landowner to notify a company in writing by providing
12 global positioning system yield monitoring data or similar
13 assessment data demonstrating crop deficiency to the company
14 within 30 days of harvest, and strikes language providing
15 that a settlement may expressly release a company from soil
16 productivity damage claims.

17 The bill creates new provisions relating to landowner
18 liability in Code chapters 478, 479, and 479B. The bill
19 provides that except where a landowner's actions constitute
20 gross negligence and the landowner commits critical
21 infrastructure sabotage as defined in Code section 716.11
22 (relating to critical infrastructure sabotage definitions),
23 the landowner shall not be liable for any damages to a project
24 permitted under Code chapters 478, 479, and 479B.

25 The bill includes provisions relating to land restoration
26 standards. The bill adds a land restoration section in
27 Code chapter 478 that mirrors land restoration standards in
28 Code chapters 479 and 479B. The new Code section includes
29 requirements that the board adopt rules related to the
30 restoration of agricultural lands during and after transmission
31 line, wire, or cable construction and distribute notice of
32 intended actions to county boards of supervisors. Rules
33 shall include subject matters relating to topsoil, temporary,
34 permanent, and future drain tile issues, removal of rocks and
35 debris, soil compaction, terraces, waterways, and other erosion

1 control structures, revegetation, restoration of land slope
2 and contour, restoration of field entrance and temporary road
3 areas, construction in wet conditions, and designation of a
4 franchisee point of contact.

5 The bill provides that a county board of supervisors may
6 require an on-site compliance inspection at any time to be
7 performed by a specialized licensed professional engineer.
8 The reasonable costs of the inspection shall be paid by the
9 franchisee. Notice of a violation relating to provisions
10 regarding land restoration, the land restoration plan created
11 by the franchisee and submitted to the board, or of an
12 independent agreement shall be given to the franchisee or a
13 contractor for the franchisee. Corrective action shall be
14 taken by the franchisee and the costs of the corrective action
15 shall be borne by the contractor of the franchisee.

16 The bill provides that a franchisee shall file a written
17 land restoration plan with their petition. The franchisee
18 shall provide copies of the plan to all landowners of property
19 that will be disturbed by the construction. The bill does not
20 preclude additional means of land protection or restoration
21 in addition to the plan, rules regarding the plan, or other
22 written agreements.

23 The bill provides that an inspector shall adequately
24 inspect underground improvements altered during transmission
25 line, wire, or cable construction, and the inspection shall
26 be conducted at the time of the replacement or repair of the
27 underground improvements. Additionally, an inspector shall
28 be present on-site at all times and the franchisee and its
29 contractor shall keep an inspector continually informed of
30 the work schedule and any schedule changes. The county board
31 of supervisors may petition the board for an order requiring
32 corrective action to be taken where the franchisee or its
33 contractor is in noncompliance. In addition, the county
34 board of supervisors may file a complaint with the board
35 seeking imposition of civil penalties of not more than \$100

1 per violation or \$1,000 per day of a continuing violation,
2 whichever is greater, under Code section 478.29.

3 The bill provides that a franchisee shall allow landowners
4 and the inspector to view the proposed center line of the
5 transmission line, wire, or cable prior to commencing trenching
6 operations to ensure that construction takes place in its
7 proper location, and an inspector may temporarily halt the
8 construction for noncompliance until the inspector consults
9 with the supervisory personnel of the franchisee. The board
10 shall instruct appointed inspectors of the content of the
11 statutes and rules and the inspectors' responsibility to
12 require compliant construction.

13 The bill modifies surety bond amounts for projects
14 constructed pursuant to Code chapters 479 and 479B. The
15 bill changes the amount that an applicant for a permit shall
16 demonstrate in property value (other than pipelines) in excess
17 of \$1 million from \$250,000. The bill also requires the
18 applicant to file and maintain with the board a surety bond
19 of \$1 million or 1 percent of the project value, whichever is
20 lesser, from a surety bond of \$250,000.

21 The bill is effective upon enactment and includes
22 applicability provisions. The bill applies to an application
23 for a permit pursuant to Code chapters 476A, 478, 479, and
24 479B where the first informational meeting for a petition is
25 held on or after the effective date of the bill, except where
26 otherwise provided. For sections of the bill relating to
27 liability regarding a landowner's gross negligence and critical
28 infrastructure sabotage and sections of the bill regarding
29 petitioner responsibility for damages under Code chapters
30 478, 479, and 479B, the bill shall apply retroactively to all
31 applications for a permit under those Code chapters.